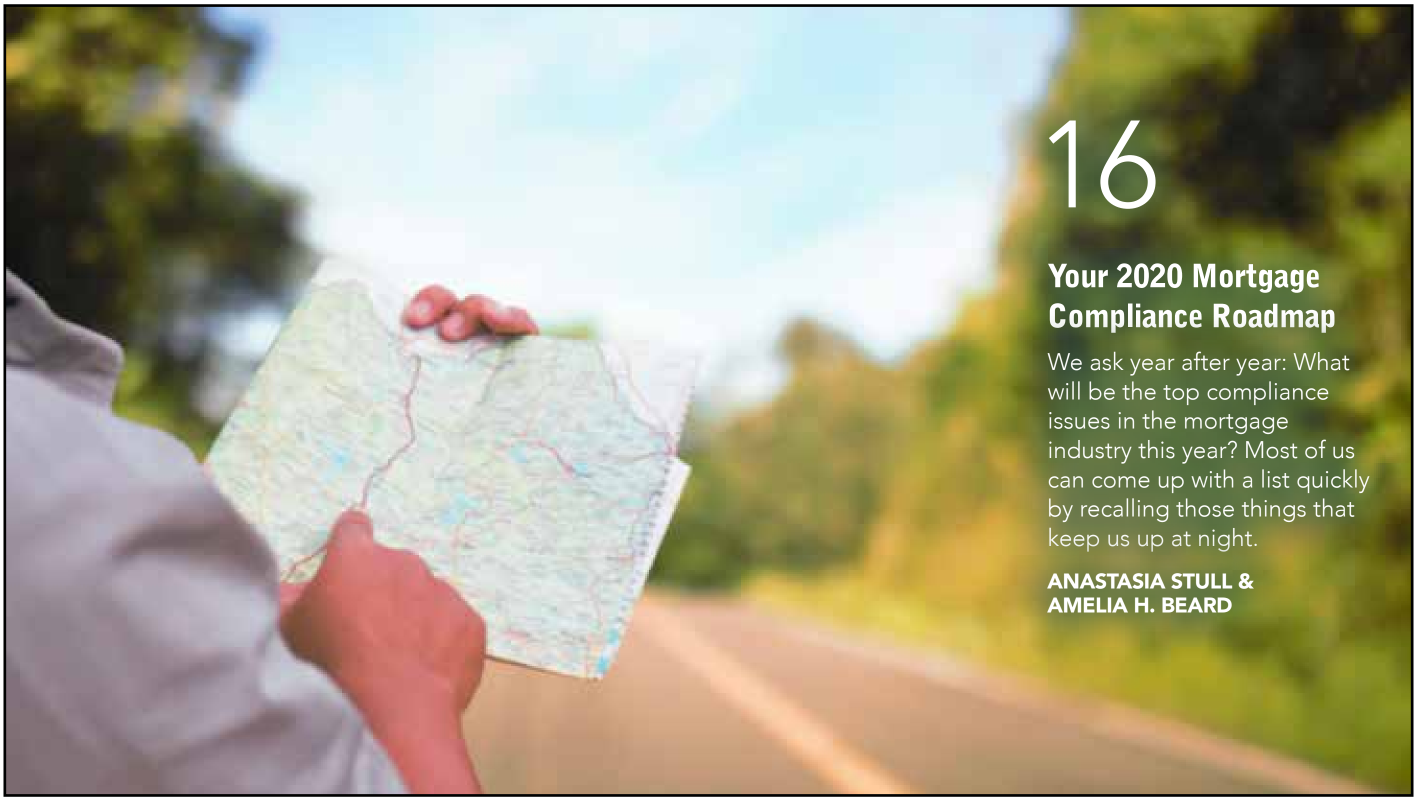
January 2020 FEATURES



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Your 2020 Mortgage Compliance ROADMAP

By Anastasia D. Stull & Amelia H. Beard

We ask year after year: What will be the top compliance issues in the mortgage industry this year? Most of us can come up with a list quickly by recalling those things that keep us up at night. The road ahead is under construction with no end date in sight(i.e. proposed changes to CRA, FDCPA, HMDA and more) several potholes (i.e. cybersecurity threats and vendor management), and possibly a few detours (i.e. uncertainty around the CFPB and changing/new state regulations). What can mortgage compliance professionals do to stay safely in their lane?

TURN YOUR BRIGHTS ON

Recent history suggests you either get a comprehensive information security plan in place or plan to pay dearly when, not if, you are making headlines. Pay now or pay later is an idea of the past. Protecting the data you collect and transmit must be a top priority for mortgage professionals in 2020. While everyone quickly turns to network and server security, the investment in compliance training of employees cannot be underestimated.

To do this, leadership needs to understand what their employees are facing, who they are interacting with, and what demands they are trying to meet. Not every employee needs access to all the data pieces. Human error has played a role in many of the most recent breaches, so when you are revisiting your cybersecurity protocol for 2020, emphasize the power of your people.

A second component that cannot be overlooked is testing. Testing your networks and servers, testing your third-party vendors, and testing your employees. We are convinced no one is immune from a data breach, but the ones who are routinely testing to identify vulnerabilities are likely to come out ahead.

In sum, revisit your systems to ensure proper security protocols are in place, train your employees thoroughly and routinely, and, finally, conduct robust testing. Arming your employees with the tools and information they need to ward off a breach will not only empower them but also build confidence among your other stakeholders and spare you the reputational harm caused by a preventable breach.

EYES ON THE ROAD... EVEN IF YOU HIRED A DRIVER

In our new world of fast-pasted innovation, it is no secret that vendor management will continue to be a big topic in the boardroom in 2020. Lenders are increasingly relying on third party providers to augment their resources for the most favorable business outcomes.

The goal behind employing innovative strategies is often to extract more value from technological advances and outsourcing and streamline processes, but those efficiencies also invite stringent regulatory scrutiny on third- and fourth-party relationships. In some cases, outsourced solutions can reduce costs for financial services companies by an average of 30 percent by leveraging outside resources compared with the hiring and retention of specialized, expensive staff. However, the more functions that are outsourced, the more need there is for operational transparency and complex multi-vendor outsourcing agreements. Ultimately, leveraging technology can result in efficiencies and cost-savings, but the risks are highest for those organizations that are most reliant on outside vendors.

Starting with the initial engagement of potential vendors to the review of long-standing relationships, vendor management plays an important role in ensuring lenders receive the best possible solutions and services, securely, and as conveyed in your agreements. Compliance professionals must have a fundamental understanding of the processes involved in vendor management, the pitfalls, and be committed to staying in compliance with industry standards during onboarding and beyond.

Failing to stay on top of the latest threats can expose your business to compliance, operational, reputational, and financial risk. If your vendors aren't in compliance, neither are you. Regulators, the courts, and consumers still hold the primary service provider responsible. Compliance must recognize that most vendors require a different approach to risk management because managing the risk of those activities is not outsourced. Lenders should aim in 2020 to find modern solutions to managing the complex vendor landscape that can offer more visibility and strong reporting protocols. The "devil is in the details" approach is critical to ensure there is true standardization and risk mitigation across all vendors and platforms.

For compliance professionals looking to improve their vendor management process, knowing where to start is the first step. On a regular basis, compliance should be completing self-assessments of their vendor management maturity levels to identify a starting point for vendor management teams seeking to identify areas of strength and expose gaps in order to chart an actionable improvement plan. Once an action plan is in place, collaborate and remediate with your internal and external stakeholders to stay in compliance.

EXPECT DETOURS

With questions still looming as we move into 2020 about the constitutionality of the Consumer Financial Protection Bureau, a new Director, Kathleen Kraninger, is firmly in place. There were hints from the former CFPB Acting Director Mick Mulvaney that a new Administration would harken the end of regulation by enforcement. Instead, it appears the lull in decreased federal enforcement is over as we are entering a new decade. Regulation by enforcement is not dead and gone and, in fact, state enforcement is increasing.

On December 10, 2019, in a speech before the National Association of Attorneys General Capital Forum, Director Kraninger recapped FY 2019 enforcement actions and settlements which have resulted in more than $777 million total consumer relief and discussed the Bureau's partnership with the states. She noted the recent efforts between the Bureau and the states to partner in supervision, enforcement, and future innovation. As an example of increased coordination, the Bureau recently announced its partnership with the American Consumer Financial Innovation Network (ACFIN) made up of nine state attorneys general and four state financial regulators, which is designed to enhance coordination among federal and state regulators to facilitate financial innovation. More coordinated efforts between the federal and state regulators should signal to compliance a need to be more buttoned-up than ever before. Those organizations that loosened up their compliance belts may want to reconsider as we enter this new era.

Considering the Democrats accusations aimed at Director Kraninger during her testimony before the Housing Committee on Financial Services on October 16, 2019, that the Bureau has left consumers "high and dry," it is entirely possible that there will be pressure for more enforcement from the Administration if we have a new President in 2020, and in any case we've been told by the Bureau that they expect to release more rules, triggering new compliance requirements, on payday lending and debt collection this year.

IDENTIFY YOUR TRAVEL BUDDIES

Regardless of the size of your organization or the sophistication of your compliance program, you need to identify key people to develop, review, implement, test, amend, and correct your compliance plan. The CFPB, OCC, FTC, FDIC, FFIEC, and your state regulatory entities are all on the roadway ahead, and with the proper compliance attorneys and professionals by your side, you can better meet their demands. From evaluating third party vendors to drafting policies for implementing the latest regulations, anyone reading this article needs the occasional backseat driver to meet the demands of today's compliance and regulatory environment. MBM